IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

Crl.Rev.Pet.No. 674 of 1999()

AGAINST THE JUDGMENT IN CRA.282/1996 of SESSIONS COURT, THRISSUR DT/13/7/99
CC.88/1996 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, THRISSUR

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REVN. PETITIONER: APPELLANT/ ACCUSED

NOORUDHEEN, AGED 50 YEARS,
S/O.MEERAN PILLAI,
POTTAVILAYIL HOUSE,
KIZHAKKEPUTAM, THRISSUR

BY ADV. SRI.P.K.ABOOBACKER(EDATHALA)

RESPONDENT: RESPONDENT

STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR , HIGH COURT OF
KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO.674 of 1999

DATED THIS THE 20th JUNE 2007

ORDER

The revision petitioner stands convicted for the offence under Section 292(2)(a) IPC and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.1000/- and in default to undergo simple imprisonment for one month. The prosecution case is that on 18-5-1995 at 5.30 p.m. the accused was found in possession of MO.1 series of obscene books in Room No. 25/55 of Ward V Broadway, Thrissur. He was charged for the offence under Section 292(2)(a) and 292(2)(b). The appellate court acquitted the accused for the offence under Section 292(2)(b).

2. The evidence adduced in the matter consisted of the testimony of Pws.1 to 5, Exts.P1 to P5 and MO.1 series.

3. The charge framed is that the accused was keeping the above books for sale in the room occupied by him on the particular date and time and at the particular place. Pw3, the

Circle Inspector, who detected the offence and took into custody of MO.1 series, has testified that he searched the room and seized the books numbering 231, on receipt of information the accused is engaged in the sale of obscene books. Pws.1 and 5 are the police officials who accompanied PW3. They have supported the evidence of PW3. Pw2 is the Watchman of the building who is a signatory to Ext.P1 seizure mahazar. He has testified in proof of Ext.P1 seizure mahazar. Pw4 is another witness to Ext.P5 seizure mahazar. As per Ext.P4 the rent receipt in the name of the accused was taken into custody. I find that the evidence adduced in the matter fully support the concurrent findings of the courts below. It is the contention of the revision petitioner/accused based on the decisions reported in **Moidu v. State of Kerala, 1989 (2)KLT 809 and Ramesh Krishnan v. State of Kerala, 1999(2)KLT 806** that just possession would not amount to the offence under Section 292(2)(a). It has to be noted that the fact situation in the above cases are entirely different. In the former case it was the case of just two cassettes recovered from the person of the accused and in the

later case the accused was sitting in his house and viewing a blue film. It has to be mentioned that in the instant case the accused was found in possession of quite a number of books and many of which were copies of the same. The above along with the evidence of Pws.3,1, and 5, I find do establish the prosecution case beyond reasonable doubt.

It is pointed out that the incident has taken place in 1996 and for more than 10 years have elapsed since the commencement of the proceedings and the accused is facing criminal proceedings so far. In the circumstances, I find that the sentence is liable to be modified. The sentence is modified to imprisonment till the rising of the court and to pay a fine of Rs.2,000/- and in default to undergo simple imprisonment for one month. The revision petitioner shall appear before the Judicial First Class Magistrate-I, Thrissur on 20-7-2007 The Crl.revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO.674 of 1999

ORDER

20-6--2007

ORDER ON CRL.M.P. NO. 2989 OF 1999 IN CRL.R.P.NO. 674 OF 1999

DISMISSED.

20-6-2007 SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE